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Practice of the Secretary-General in disciplinary matters and cases of possible criminal behaviour, 1 July 2014 to 30 June 2015

Report of the Secretary-General

Summary

The present report is submitted in response to the request of the General Assembly in paragraph 16 of its resolution 59/287 that Member States be informed on an annual basis about all actions taken in cases of established misconduct and/or criminal behaviour and the disciplinary action and, where appropriate, legal action taken in accordance with the established procedures and regulations. The report covers the period from 1 July 2014 to 30 June 2015.

The General Assembly is invited to take note of the report.

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I. Introduction

1. The present report is submitted in response to the request of the General Assembly in paragraph 16 of its resolution 59/287 that Member States be informed on an annual basis about all actions taken in cases of established misconduct and/or criminal behaviour in accordance with the established procedures and regulations. The report covers the period from 1 July 2014 to 30 June 2015.

2. As requested in paragraph 17 of resolution 59/287, an information circular will be issued so that all staff of the Organization will be informed of the most common examples of misconduct and/or criminal behaviour and their disciplinary consequences, including legal action, with due regard for the protection of the privacy of the staff members concerned.

3. A broad overview of the administrative machinery in disciplinary matters is provided in section II below so that the information provided in sections III and IV may be understood in context. Section III contains a summary of the cases for which one or more disciplinary measures were imposed by the Secretary-General on Secretariat staff members during the reporting period. Section IV contains comparative data reflecting the disposition of cases completed during the reporting period, including cases that did not result in the imposition of a disciplinary measure, and information about appeals of disciplinary measures imposed since 1 July 2009. Section IV also provides comparative data on the number and nature of cases referred to the Office of Human Resources Management for action during the reporting period. Section V provides information on the practice of the Secretary-General in cases of possible criminal behaviour.

II. Overview of the administrative machinery with respect to disciplinary matters

A. Legislative framework governing the conduct of staff members[1]

4. Article 101, paragraph 3, of the Charter of the United Nations states that the "paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity".

5. Article I of the Staff Regulations and chapter I of the Staff Rules, both entitled "Duties, obligations and privileges", set out the basic values expected of international civil servants because of their status, as well as particular manifestations of such basic values. Particular reference is made to staff regulation 1.2 and staff rule 1.2 for specific instances of expected and prohibited conduct.

[1] Provisions relating to the status, rights and duties of staff members, and to disciplinary matters, can be found in the electronic version of the Human Resources Handbook (available at https://hr.un.org/handbook) under the headings "Status, basic rights and duties" and "Disciplinary matters".

B. Misconduct

6. Staff regulation 10.1 (a) provides that "the Secretary-General may impose disciplinary measures on staff members who engage in misconduct". Staff rule 10.1 (a) provides that the "failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant may amount to misconduct and may lead to the institution of a disciplinary process and the imposition of disciplinary measures for misconduct". Additionally, staff rule 10.1 (c) provides that "the decision to launch an investigation into allegations of misconduct, to institute a disciplinary process and to impose a disciplinary measure shall be within the discretionary authority of the Secretary-General or officials with delegated authority". Within those parameters, the Secretary-General has broad discretion in determining what constitutes misconduct and in imposing disciplinary measures. The administrative instruction on revised disciplinary measures and procedures (ST/AI/371/Amend.1),[2] provides further examples of conduct for which disciplinary measures may be imposed. A new administrative instruction on investigations and the disciplinary process continues to be under preparation and remains the subject of ongoing discussion and consultation among management and other stakeholders. One of the main goals of the new instruction is to codify certain matters relating to the investigatory process. A staff management working group on the new policy met on a number of occasions during the reporting period. Meetings were suspended pending discussions among management principals and among the staff representatives on certain issues. It is currently anticipated that a new policy will be promulgated at the end of 2015 or early in 2016.

C. Procedural fairness

7. Where the head of office or other responsible officer believes, following an investigation, that misconduct may have occurred, he or she refers the matter to the Assistant Secretary-General for Human Resources Management for a decision on whether to pursue the matter as a disciplinary case. Depending on the subject matter and complexity of the report of misconduct, the investigation may have been undertaken by the head of office or his or her designees, or by the Office of Internal Oversight Services, at its own initiative or at the request of a head of office.

8. If the Assistant Secretary-General for Human Resources Management decides to pursue the matter as a disciplinary case, the staff member is notified in writing of the allegations of misconduct and is informed of his or her opportunity to comment on the allegations and of the right to seek the assistance of counsel in his or her defence through the Office of Staff Legal Assistance or from outside counsel at his or her own expense. The staff member is given a reasonable opportunity to respond to the allegations of misconduct. In the light of the comments provided by the staff member, the Assistant Secretary-General for Human Resources Management decides whether to close the case, with or without administrative action, or to recommend the imposition of one or more disciplinary measures. In the latter case,

[2] See also ST/SGB/2008/5, on the prohibition of discrimination, harassment, including sexual harassment, and abuse of authority.

the Under-Secretary-General for Management decides, on behalf of the Secretary-General, whether to impose one or more of the disciplinary measures provided for in staff rule 10.2 (a).

9. Staff rule 10.4 (a) provides that, at any time pending an investigation until the completion of the disciplinary process, a staff member may be placed on administrative leave by the appropriate official.[3]

10. In accordance with staff rule 10.3 (c), a staff member against whom a disciplinary measure has been imposed may submit an application to the Dispute Tribunal challenging the imposition of the measure in accordance with Chapter XI of the Staff Rules.[4]

D. Disciplinary measures

11. Staff rule 10.2 (a) provides that disciplinary measures may take one or more of the following forms (i.e. more than one measure may be imposed in each case):

(a) Written censure;

(b) Loss of one or more steps in grade;

(c) Deferment, for a specified period, of eligibility for salary increment;

(d) Suspension without pay for a specified period;

(e) Fine;

(f) Deferment, for a specified period, of eligibility for consideration for promotion;

(g) Demotion, with deferment, for a specified period, of eligibility for consideration for promotion;

(h) Separation from service, with notice or compensation in lieu of notice, and with or without termination indemnity;

(i) Dismissal.

12. In determining the appropriate measure, each case is decided on its own merits, taking into account the particulars of the case, including aggravating and mitigating circumstances. Additionally, in accordance with staff rule 10.3 (b), disciplinary measures imposed must be proportionate to the nature and gravity of the misconduct involved. Given the thoroughness of the review involved to assess the unique facts and features of each case, the specific sanction that applies to a specific type of misconduct cannot be determined in advance or applied across the board.

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[3] In January 2013, the Assistant Secretary-General for Human Resources Management delegated to the Under-Secretary-General for Field Support, on a pilot basis, the authority to place field mission staff members on administrative leave with pay. The delegation of authority on a pilot basis was reconfirmed in September 2014. Guidelines for placement of staff on administrative leave with pay pending investigation and under the disciplinary process can be found in the Human Resources Handbook (https://hr.un.org/handbook).

[4] Judgements of the Dispute Tribunal relating to disciplinary cases can be found on the website of the Office of the Administration of Justice (www.un.org/en/oaj).

E. Other measures

13. Written or oral reprimands, recovery of moneys owed to the Organization and administrative leave with or without pay are not considered disciplinary measures. Reprimands, such as warnings or letters of caution, are administrative and/or managerial measures that are important for upholding standards of proper conduct and promoting accountability. In addition, where conduct that may amount to misconduct has an impact on performance, the issue may be addressed in the context of performance management. This may include training, counselling, the withholding of salary increments, the non-renewal of a contract or the termination of an appointment.

III. Summary of cases in which disciplinary measures were imposed during the period from 1 July 2014 to 30 June 2015

14. For each case that led to the imposition of one or more disciplinary measures, a summary is provided below indicating the nature of the misconduct and the disciplinary measure or measures imposed by the Secretary-General. The functional title of the staff members or other particulars relating thereto are provided only when they played a role as aggravating or mitigating circumstances in determining the measures to be taken. Conduct issues that were dealt with by means other than disciplinary measures are not listed.

15. As noted above, both aggravating and mitigating factors are taken into account in determining a sanction, and these vary according to the unique facts and circumstances of a case. Examples of possible aggravating factors are the repetition of acts of misconduct, the intent to derive personal benefit and the degree of harm resulting from the misconduct. Examples of possible mitigating factors are sincere remorse, a staff member's personal circumstances and voluntary disclosure of the acts of misconduct.

16. Not every case brought to the attention of the Secretary-General results in disciplinary or other measures being taken. When a review by the Office of Human Resources Management reveals that there is insufficient evidence to pursue a matter as a disciplinary case, or when a staff member provides a satisfactory explanation in response to the formal allegations of misconduct, the case is closed. Cases may also be closed when a staff member retires or otherwise separates from the Organization before an investigation or the disciplinary process is concluded, as the Secretary-General does not have the authority to impose disciplinary measures on former staff members. In such cases, a record is made and placed in the former staff member's official status file so that the matter can be further considered if and when the staff member rejoins the Organization. In this regard, section 3.9 of the administrative instruction on the administration of fixed-term appointments (ST/AI/2013/1) provides that a former staff member "will be ineligible for re-employment following ... resignation during an investigation of misconduct or institution of a disciplinary process, unless the former staff member agrees to cooperate with an ongoing investigation or disciplinary process until its conclusion." Where relevant, this provision is noted in records placed in the official status files of staff members who have resigned.

17. In paragraph 23 of its resolution 68/252, the General Assembly requested the Secretary-General to take appropriate measures to mitigate and recoup any losses arising from misconduct by staff members and to report thereon. As the summaries of the cases below indicate, in the majority of the cases where there was a quantifiable loss to the Organization, the Organization either recovered the relevant property and/or funds or the staff member repaid the funds at issue. The recovery of financial losses to the Organization is currently being effected under staff rule 10.1 (b), which provides that where conduct is determined by the Secretary-General to constitute misconduct and the Organization has suffered a financial loss as a result of the staff member's actions, which are also determined to be wilful, reckless or grossly negligent, such staff member may be required to reimburse the Organization for such loss in whole or in part. One of the proposed changes to the administrative instruction on investigations and disciplinary matters that is under revision (see para. 6 above) is to elaborate on the procedures for recovery of losses to the Organization resulting from established misconduct, pursuant to staff rule 10.1 (b), thereby enhancing the legal framework to effect recovery.

A. Abuse of authority, harassment and discrimination

18. A staff member in a senior position harassed a subordinate, improperly favoured another staff member and created a hostile working environment. *Disposition*: demotion with deferment, for a period of three years, of eligibility for promotion. *Appeal*: none.

B. Theft and misappropriation

19. A staff member stole money from the wallet of another staff member. The mitigating circumstance of the staff member's admission and apology was considered, but reduced by the fact that, having been caught in the act, the staff member had little alternative but to admit the conduct. The fact that the act targeted a close colleague breached the heightened relationship of trust between staff members who worked closely together and was considered an aggravating factor. *Disposition*: dismissal. *Appeal*: none.

20. A staff member, while performing security and screening functions at an airport, took, without authorization, $2,200 from the luggage of a passenger travelling on a United Nations flight. There were mitigating circumstances, including the staff member's voluntary repayment of the money taken, and certain procedural irregularities. The fact that the staff member violated the position of trust as a security official was an aggravating circumstance. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

21. A staff member who was a warehouse assistant attempted to take, without authorization, a ream of paper and approximately 15 plastic seals belonging to the Organization. There were mitigating circumstances, including the time taken to dispose of the case. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

22. A staff member took, without authorization, a drum of petroleum product belonging to the Organization and sold it to a third party. There were mitigating circumstances, including the time taken to dispose of the case and the recovery of the drum of petroleum product. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

23. Two staff members were involved with the unauthorized removal and sale of tyres belonging to the Organization. The loss to the Organization attributable to these staff members could not be quantified. *Disposition*: separations from service, with compensation in lieu of notice and without termination indemnities. *Appeal*: one appeal filed with the Dispute Tribunal, where the case remained under consideration as at the date of submission of the present report.

24. A staff member took, without authorization, a vehicle belonging to the Organization,. The vehicle was recovered. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

25. A staff member took, without authorization, fuel belonging to the Organization. The fact that the staff member exercised the functions of a driver and therefore had a heightened duty of care towards the Organization's assets that related to his duties was considered as an aggravating factor. The specific amount of fuel taken by the staff member could not be ascertained. *Disposition*: dismissal. *Appeal*: none.

26. A staff member took, without authorization, fuel belonging to the Organization. Aggravating factors were present, including the staff member's functions as a driver. The specific amount of fuel taken by the staff member could not be ascertained. *Disposition*: dismissal. *Appeal*: none.

27. A staff member falsified documents relating to the volume of fuel dispensed and sold fuel belonging to the Organization, without authorization. The specific amount of fuel taken by the staff member could not be ascertained. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

28. A staff member who was a warehouse assistant improperly created and used a document that purportedly authorized the staff member to move barbed wire belonging to the Organization from United Nations premises, when, in fact, no such authorization had been granted. Aggravating factors were present, including that the staff member's functions related to managing inventory. The staff member was required to repay the Organization the value of the materials removed. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

29. A staff member improperly instructed an individual contractor who was working under the staff member's supervision to destroy property belonging to the Organization. Mitigating circumstances were present, including the time taken to dispose of the case. Aggravating circumstances included the staff member involving and falsely implicating a subordinate in the wrongdoing. No property was removed from the Organization's premises. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

30. A staff member improperly altered the labelling on the salary envelopes of several independent contractors and removed cash from the envelopes, all without authorization. The staff member was required to repay the Organization a sum equivalent to the moneys removed. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

31. Three staff members removed from envelopes money that was to be used to pay the wages of individual contractors. There were mitigating circumstances, including the staff members' voluntary return of the moneys taken and the time taken to resolve the case. *Disposition*: separations from service, with compensation in lieu of notice and without termination indemnities. *Appeal*: the time for appeal of the disciplinary measures had not expired as at the date of submission of the present report.

C. Misrepresentation and false certification

32. A staff member repeatedly misrepresented the educational qualifications obtained by the staff member on the personal history profiles (PHPs) submitted by the staff member to the Organization and falsely certified the accuracy of the information in the context of selection exercises. Mitigating circumstances were present, including long and satisfactory service with the Organization. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

33. A staff member misrepresented the staff member's educational qualifications on the staff member's P.11 form, falsely certified the accuracy of the information and submitted a false diploma to the Organization in the context of a selection exercise. Mitigating circumstances were present, including long and satisfactory service with the Organization. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

34. A staff member made material omissions in multiple PHPs concerning his history of arrest and conviction. The staff member also failed to notify the Secretary-General that he had been summoned before a court in a criminal proceeding and that he had been criminally convicted. Mitigating circumstances were present, including long and satisfactory service of the staff member with the Organization. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

35. A staff member made a material omission in a PHP concerning a history of arrest and conviction. The staff member indicated that the staff member had never been arrested or convicted for the violation of any law despite having been convicted of theft the previous year. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

36. A staff member submitted an education grant claim and documentation that contained false information. The overpayment of $1,912.50 was recovered from the staff member. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

37. A staff member submitted multiple education grant claims and documentation that contained false information, signatures and stamps. The amount of the loss to the Organization could not be quantified because, based on the information made available to the Organization by the educational institutions, it could not be determined how much the staff member would have received had the staff member submitted accurate information to the Organization. *Disposition*: dismissal. *Appeal*: filed with the Dispute Tribunal, where the case remained under consideration as at the date of submission of the present report.

38. A staff member submitted leave-related documentation that did not accurately reflect the staff member's absences from a duty station. There were mitigating circumstances, including the time taken to resolve the case and the satisfactory service of the staff member in difficult duty stations. *Disposition*: deferment, for a period of one year, of eligibility for consideration for salary increment, and written censure. *Appeal*: the time for appeal of the disciplinary measures had not expired as at the date of submission of the present report.

D. Misuse of United Nations property or assets

39. A staff member used an official vehicle of the Organization to transport approximately 173 kilograms of marijuana. *Disposition*: dismissal. *Appeal*: none.

40. Two staff members each drove a United Nations vehicle without a valid driver's permit and improperly used a driver's permit that had been issued by the Organization to a United Nations Volunteer. The fact that the staff members exercised supervisory functions as security guards was considered an aggravating factor. *Dispositions*: loss of three steps in grade, with deferment, for a period of one year, of eligibility for salary increment, and written censure, and an administrative measure consisting of the withdrawal for a period of one year of any supervisory duties. *Appeal*: the time for appeal of the disciplinary measures had not expired as at the date of submission of the present report.

41. A staff member who performed the functions of a supply officer enabled an individual to travel on a United Nations aircraft without proper authorization by providing false information in the documentation pertaining to the travel. There were mitigating circumstances, including the time taken to resolve the case and the staff member's remorse. *Disposition*: demotion of one grade, with deferment, for a period of one year, for eligibility for consideration for promotion and written censure. *Appeal*: filed with the Dispute Tribunal, where the case remained under consideration as at the date of submission of the present report.

42. A staff member knowingly included false information in movement-related documentation prepared on behalf of a friend and approved this documentation in the staff member's official capacity. The staff member also permitted the friend to reside at the staff member's residence without authorization. Mitigating factors were present, including the staff member's remorse and the difficult working conditions at the staff member's duty station. Aggravating factors were present, including the staff member's abuse of trust as a senior official. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: filed with the Dispute Tribunal, where the case remained under consideration as at the date of submission of the present report.

43. A staff member working in movement-related functions at a United Nations air terminal attempted to transport a chainsaw on a United Nations passenger flight on behalf of a colleague without authorization and failed to follow any of the applicable safety and screening procedures when doing so. Aggravating circumstances were present, including the staff member's long service in movement-related functions. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: filed with the Dispute Tribunal, where the case remained under consideration as at the date of submission of the present report.

44. A staff member who had access to confidential code cables by virtue of the staff member's functions improperly obtained confidential code cables and disseminated them to one or more unauthorized recipients. Aggravating factors were present, including the special trust and responsibility resulting from the staff member's functions in communications. *Disposition*: dismissal. *Appeal*: none.

E. Misuse of United Nations information and communications technology resources

45. A staff member declared as official, to the Organization, communications made from the staff member's official mobile telephone that were, in fact, private in nature. Recovery of the moneys owed to the Organization was initiated as an administrative measure during the investigation; such action was not contested by the staff member. *Disposition*: fine of two months' net base salary and written censure. *Appeal*: none.

46. A staff member declared as official, to the Organization, a large number of communications that were, in fact, private in nature and falsified data relating to telephone charges incurred by other staff members in order to attempt to hide the staff member's actions. Recovery of the moneys owed to the Organization was effected together with the disciplinary measure. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

47. A staff member stored pornographic material on the staff member's United Nations computer and failed to report that another staff member had forwarded pornographic material to the staff member through the Organization's e-mail system. *Disposition*: demotion of one grade with deferment, for a period of two years, of eligibility for consideration for promotion. *Appeal*: none.

48. A staff member stored pornographic material, including pornography involving a minor, on the staff member's United Nations computer, distributed other pornographic material through the Organization's e-mail system, and failed to report that another staff member had sent the staff member inappropriate material through the Organization's e-mail system. *Disposition*: dismissal: *Appeal*: none.

49. A staff member sent, through the Organization's e-mail system, and stored on the staff member's United Nations computer, pornographic material involving a minor and, on other occasions, distributed, through the Organization's e-mail system, other pornographic material. *Disposition*: dismissal. *Appeal*: none.

50. A staff member sent, through the Organization's e-mail system, pornographic material involving a minor and, on three other occasions, distributed other

pornographic material through the Organization's e-mail system and stored pornographic material on the staff member's United Nations computer. *Disposition*: dismissal. *Appeal*: none.

51. A staff member sent, through the Organization's e-mail system, pornographic material, including pornographic material involving a minor, and failed to report that another staff member had sent the staff member inappropriate material though the Organization's e-mail system. *Disposition*: dismissal. *Appeal*: none.

F. Unauthorized outside activities and conflict of interest

52. A staff member owned and managed an outside concern without obtaining prior authorization from the Secretary-General. *Disposition*: loss of a step in grade and deferment, for one year, of eligibility for a salary increment and written censure. *Appeal*: none.

G. Assault and abusive conduct

53. A staff member used threatening language, including veiled threats, towards another staff member. *Disposition*: demotion with deferment, for one year, of eligibility for consideration for promotion. *Appeal*: none.

54. A staff member serving as a security guard physically assaulted and used verbally abusive language towards another staff member. There were mitigating factors, including the staff member's personal circumstances. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

55. A staff member assaulted another staff member with a pool cue. There were mitigating factors, including that the staff member was cooperative during the investigation and made amends to the staff member who was assaulted. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

56. A staff member attempted to attack another staff member with a knife. *Disposition*: dismissal. *Appeal*: none.

57. A staff member attempted to physically assault another staff member and verbally abused the same staff member. There were mitigating circumstances, including the staff member's emotional distress arising from work-related matters. *Disposition*: loss of four steps in grade and written censure. *Appeal*: the time for appeal of the disciplinary measures had not expired as at the date of submission of the present report.

58. A staff member who was a security guard physically assaulted and threatened to kill an individual contractor. *Disposition*: dismissal. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

59. A staff member assaulted another staff member. There were mitigating factors, including the fact that the victim of the assault had directed abusive language towards the staff member. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: filed with the Dispute

Tribunal, where the case remained under consideration as at the date of submission of the present report.

60. A staff member physically assaulted another staff member during the course of an argument concerning a work-related dispute. There were mitigating factors, including the staff member's long and satisfactory service with the Organization. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: filed with the Dispute Tribunal, where the case remained under consideration as at the date of submission of the present report.

61. A staff member repeatedly threatened to kill or suggested that the staff member could arrange to kill the Head of Mission. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

62. A staff member drove a tractor in the direction of a pre-fabricated office in which the staff member's supervisor was working, with the intent of damaging the office and injuring the staff member's supervisor. Mitigating circumstances were present, including long-standing workplace-related issues. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

H. Inappropriate or disruptive behaviour

63. During a staff protest at a peacekeeping mission, a staff member improperly restricted the movement of pedestrians and/or vehicles in and out of the base; intimidated and/or physically assaulted one or more individuals; attacked and/or damaged a United Nations vehicle; and permitted one or more local journalists to enter the mission without authorization. *Disposition*: dismissal. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

64. During a staff protest at a peacekeeping mission, a staff member disarmed a military officer. *Disposition*: dismissal. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

65. During a staff protest at a peacekeeping mission, a staff member improperly restricted the movement of pedestrians and/or vehicles in and out of the base and intimidated a security officer, including by attempting to take the security officer's personal property. *Disposition*: dismissal. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

66. During a staff protest at a peacekeeping mission, a staff member attacked and/or damaged a United Nations vehicle and damaged the property of a staff member of another United Nations entity. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

67. During a staff protest at a peacekeeping mission, a staff member intimidated a security officer. *Disposition*: written censure and a loss of three steps in grade.

Appeal: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

I. Failure to honour private obligations

68. A staff member failed to honour a private legal obligation. Aggravating circumstances were present, including the length of time the obligation had been outstanding. *Disposition*: deferment, for a period of one year, of eligibility for consideration for promotion, and written censure. The staff member was also instructed to report regularly on steps taken to meet the staff member's private legal obligation. *Appeal*: none.

69. A staff member failed to honour a private legal obligation. Aggravating circumstances were present, including the length of time the obligation had been outstanding. *Disposition*: deferment, for a period of one year, of eligibility for consideration for promotion and written censure. The staff member was also instructed to report regularly on steps taken to meet the staff member's private legal obligation. *Appeal*: the time for appeal of the disciplinary measures had not expired as at the date of submission of the present report.

70. A staff member failed to honour a private legal obligation. Aggravating circumstances were present including the amount of the obligation ($100,000) and length of time it had been outstanding. *Disposition*: deferment, for a period of two years, of eligibility for consideration for promotion and written censure. The staff member was also instructed to report regularly on steps taken to meet staff member's private legal obligation. *Appeal*: the time for appeal of the disciplinary measures had not expired as at the date of submission of the present report.

J. Other

71. A staff member offered to assist one or more persons external to the Organization with securing United Nations employment in exchange for money. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

72. A staff member accepted a benefit from a United Nations vendor in the form of assistance in a personal financial transaction, and assisted the vendor in a procurement process. There were mitigating circumstances, including the staff member's lack of training in procurement functions. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

73. A staff member violated numerous requirements regarding movement of personnel in a mission environment, including regarding curfew hours and allowing a non-United Nations person to stay overnight in United Nations accommodation, all without authorization. Aggravating factors were present, including the prior issuance of two letters of reprimand for failure to abide by the standards of conduct expected of an international civil servant. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

74. A staff member engaged in conduct not befitting the status of an international civil servant in connection with the sale of a substance by the staff member. *Disposition*: loss of two steps in grade and written censure. *Appeal*: the time for appeal of the disciplinary measures had not expired as at the date of submission of the present report.

75. A staff member engaged in conduct not befitting the status of an international civil servant in connection with a selection exercise. *Disposition*: fine of one month's net base salary and written censure. *Appeal*: the time for appeal of the disciplinary measures had not expired as at the date of submission of the present report.

76. A staff member carried a private firearm aboard a United Nations shuttle bus and into United Nations offices. The fact that the staff member secured the firearm in a location that was normally used to secure the firearms of visitors to the mission premises operated as a mitigating factor. *Disposition*: written censure. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

77. A staff member entered into an agreement with a company that entitled the staff member to receive a commission in connection with a commercial project intended to benefit staff. There were mitigating factors, including that the project did not proceed and the involvement of staff union issues. *Disposition*: written censure. *Appeal*: the time for appeal of the disciplinary measure had not expired as at the date of submission of the present report.

IV. Data on cases received and completed during the reporting period

A. Cases completed during the reporting period

78. The tables in the present section provide information on the number and disposition of cases completed during the reporting period, including those that did not result in the imposition of a disciplinary measure. Information is also provided about appeals to the Dispute Tribunal of disciplinary measures imposed during the current and the four previous reporting periods.

79. Generally, the length of time for completion of the disciplinary process varies depending on the complexity of the matter and the volume of evidence. During the reporting period, a number of factors have continued to affect the rate of processing of disciplinary cases, including, as previously reported, the jurisprudence from the Dispute Tribunal and the Appeals Tribunal with regard to the standard of proof and the reliability of witness statements.[5] In this regard, it may be noted that because of the strict standards imposed by the Tribunals, the Office of Human Resources Management is required to perform increasingly detailed analyses and to scrutinize

[5] In particular, the decision of the Appeals Tribunal in *Molari* (2011-UNAT-164), which provided that the standard of proof in disciplinary cases that could result in a termination is "clear and convincing evidence", has often resulted in the need for the Office of Human Resources Management to request further input from investigating entities after the initial referral of the matter. It is also noted that a Dispute Tribunal judgement, *Applicant* (UNDT/2013/086), also applied the "clear and convincing" standard of proof to its analysis of the evidence in a challenge to a sanction of demotion.

every aspect of each case. There is frequently a need for clarifications and/or further investigation after referral of a matter to the Office. This need for further input from investigating entities has added significantly to the time needed to process referred matters.

80. The time taken to process a case also includes the time needed for the staff member concerned to respond to the allegations of misconduct and any further relevant information received by the Office of Human Resources Management during the disciplinary process,[6] which can be lengthy as the staff member may request extensions in order to consult counsel, who may be located far away. After responses are received from staff members, it is often necessary to seek further clarifications and/or evidence from the investigating entity and to then again obtain the staff member's comments on the additional information received.[7]

81. It should be noted that the tables reflect cases completed during the reporting period that were referred to the Office of Human Resources Management both prior to and during the reporting period. The average time taken during the reporting period to dispose of cases after their referral to the Office was 8.4 months. The increase in the time spent in the Office during this reporting period results from a number of factors, including the time taken by investigating entities to respond to requests for further supporting information and requests from staff members and the Office of Staff Legal Assistance for extensions of time to respond to communications from the Office of Human Resources Management.

Table 1
Disposition of cases completed between 1 July 2014 and 30 June 2015

Disposition	*Number*
Dismissal	15
Separation from service, with notice or compensation in lieu of notice and with or without termination indemnity	31
Other disciplinary measures	18
Administrative measures	2
Closed with no measure (after staff member has received formal allegations of misconduct)	13
Not pursued as a disciplinary matter (staff member does not receive formal allegations of misconduct)	23

[6] The time taken to process cases during this reporting period was further lengthened by the Appeals Tribunal's decisions holding that, with respect to the cases under consideration by the Tribunal, the disciplinary measures imposed on staff members were illegal because the witness statements obtained during the respective investigations did not have sufficient "indicia of reliability" or were otherwise questionable. For example, in *Nyambuza*, the witness statements were rendered in French (the language of the witnesses), but the attestations as to truthfulness were in English. As a result of these judgements, the processing of certain disciplinary cases was halted mid-process as witnesses had to be found and new statements obtained. This added more time to the processing of the cases.

[7] The requirement that additional information be provided to the staff member for comment was confirmed by the Dispute and Appeals Tribunals in *Israbhakdi* (UNDT/2012/010 and 2012-UNAT-277).

Disposition	*Number*
Separation of the staff member prior to or after referral of the case to the Office of Human Resources Management prior to the completion of a disciplinary process (e.g., retirement, end of contract, resignation)	41
Other	5
Total	**148**

82. During the period covered by the present report, 23 out of 148 cases, or 15 per cent of the cases handled, were not pursued as disciplinary matters. In the four prior reporting periods, ending 30 June 2011, 2012, 2013 and 2014, the corresponding percentages were 14 per cent, 25 per cent, 27 per cent and 20 per cent, respectively. The reason for a given case not being pursued as a disciplinary matter is specific to the facts and circumstances of the case. It is thought that the greater awareness by investigating entities of the *Molari* judgement (2011-UNAT-164), which provided that facts supporting a disciplinary measure that could result in termination must be established by clear and convincing evidence, has led to investigations being more thorough and investigating entities being more responsive to requests for further supporting information from the Office of Human Resources Management. This, in turn has led to an increase in the number of cases being pursued as compared to three years ago.

Table 2
Cases completed in the current and past four reporting periods

Period	*Number*
1 July 2014 to 30 June 2015	148
1 July 2013 to 30 June 2014	115
1 July 2012 to 30 June 2013	115
1 July 2011 to 30 June 2012	155
1 July 2010 to 30 June 2011	271

83. The number of cases completed during the period covered by the present report shows a significant increase as compared to the number of cases completed during the past two reporting periods. It is also noted that more disciplinary measures were imposed during the present reporting period than during the past three periods. During the present reporting period, 64 disciplinary measures were imposed. In the four prior reporting periods, which ended on 30 June 2014, 2013, 2012 and 2011, 39 disciplinary measures, 43 disciplinary measures, 49 disciplinary measures and 107[8] disciplinary measures were imposed, respectively. It is thought that the increase in the number of disciplinary measures imposed when compared to the number imposed in the previous three years may be the result of the increasing responsiveness of investigating entities to the requests from the Office of Human Resources Management for further input.

[8] During the reporting period ending 30 June 2011, there were two areas (i.e. failure to make required financial disclosure and misuse of United Nations information and communication technology) with numerous cases that involved similar facts and circumstances; many of these cases were closed at the same time.

84. With regard to issues concerning the workload of the Office of Human Resources Management, it may be recalled that in addition to its role in acting on cases referred for possible disciplinary action, the Office also has a role under the bulletin on the prohibition of discrimination, harassment, including sexual harassment, and abuse of authority (ST/SGB/2008/5) in connection with cases involving complaints against the most senior-level staff. In this regard, the Office is called to decide whether to initiate an investigation and, where relevant, review the completed investigation report and provide reasoned, written outcomes to complainants and alleged offenders. In addition, the Office routinely provides advice to other offices on the handling of complaints under that bulletin by those offices and responds to challenges before the Dispute Tribunal in respect of cases referred under that bulletin at various stages of handling (i.e. during and after investigations). Finally, the Office also has a role in monitoring the progress of matters submitted under that bulletin (see sections 5.11 and 6 of ST/SGB/2008/5). Given the complexity and sensitivity of such cases, the Office's involvement in these matters tends to be exceptionally resource intensive.

B. Appeals against disciplinary measures

85. Once a completed case has resulted in the imposition of a disciplinary measure, the staff member may challenge that decision before the Dispute Tribunal. It is noted that a relatively small percentage of disciplinary measures have been appealed since 1 July 2009.[9] In the reporting periods since 1 July 2009, the percentage of disciplinary measures imposed that have been the subject of appeals during each such period is 26 per cent, 16 per cent, 16 per cent, 11 per cent, 5 per cent[10] and 11 per cent[11] respectively.

Table 3
Appeals contesting disciplinary measures imposed between 1 July 2009 and 30 June 2015

Period	*Number*	*Percentage*
1 July 2014 to 30 June 2015	7	11
1 July 2013 to 30 June 2014	2	5

[9] During the past six years, the Dispute and Appeals Tribunals have considered the appeals of both disciplinary measures imposed prior to 1 July 2009 under the previous system of justice and measures imposed after 1 July 2009. The tables in the present section do not contain information about the appeals or outcomes of disciplinary measures imposed prior to the introduction of the new system of justice.

[10] It may be noted that the figure reported in the previous report (A/69/283) included 14 cases for which the time for appeal had not expired at the time of submission of the report. Upon expiration of that time period, no additional disciplinary measures were challenged. Accordingly, the percentage of appeals of disciplinary measures imposed during the previous reporting period remained 5 per cent.

[11] During the period from 1 July 2014 to 30 June 2015, of the 35 cases for which a disciplinary measure had been imposed and the time period for filing an appeal had expired, staff members in 6 cases had appealed the sanction as of the time of the submission of the present report. It is noted, however, that disciplinary measures have been imposed in 29 cases for which the time period to file an appeal had not expired as at the date of submission of the present report.

Period	*Number*	*Percentage*
1 July 2012 to 30 June 2013	5	11
1 July 2011 to 30 June 2012	7	16
1 July 2010 to 30 June 2011	16	16
1 July 2009 to 30 June 2010	8	26

86. The number of Dispute Tribunal and Appeals Tribunal judgements on disciplinary sanctions in the Secretariat imposed after 1 July 2009 is relatively small, with only a few emerging trends discernible from the jurisprudence, namely, considerable scrutiny of whether the facts on which disciplinary measures are based are established at the requisite standard and considerable support for respecting the discretion of the Secretary-General in deciding on the proportionality of the sanction imposed. Table 4 provides information about the overall outcome of cases before the Dispute and Appeals Tribunals for the period from 1 July 2009 to date.

Table 4
Disposition of the appeals contesting disciplinary measures imposed between 1 July 2009 and 30 June 2015

Disposition	*Number*	*Percentage*
Overall win by the respondent and cases withdrawn by staff member at the Dispute Tribunal[a]	30	77
Settled	6	15
Overall loss by respondent[b]	3	8
Total	**39**	**100**
Staff member's appeal pending at Dispute Tribunal	7	

[a] This number includes cases in which: respondent prevailed at Dispute Tribunal and no appeal by staff member to the Appeals Tribunal; respondent prevailed at Dispute Tribunal and Appeals Tribunal; staff member prevailed at Dispute Tribunal but respondent prevailed at Appeals Tribunal; and staff member appeal to Dispute Tribunal withdrawn.

[b] The number includes cases in which: respondent prevailed at Dispute Tribunal but staff member prevailed at Appeals Tribunal; and staff member prevailed at Dispute Tribunal and no appeal filed by respondent to the Appeals Tribunal.

C. Cases received by the Office of Human Resources Management

87. The tables in the present section provide information on the number and types of cases referred to the Office of Human Resources Management for possible disciplinary action during the period covered by the present report, as well as the number of cases received over the previous four reporting periods.

Table 5
Cases received by the Office of Human Resources Management during the current and past four reporting periods

Period	*Number*
1 July 2014 to 30 June 2015	143
1 July 2013 to 30 June 2014	140
1 July 2012 to 30 June 2013	131
1 July 2011 to 30 June 2012	95
1 July 2010 to 30 June 2011	123

Table 6
Source of cases received by the Office of Human Resources Management between 1 July 2014 and 30 June 2015

Source	*Number*	*Percentage*
Cases relating to staff based at United Nations Headquarters and offices away from Headquarters	23	16
Cases relating to field staff	120	84
Total	**143**	**100**

88. The period covered by the present report has seen an increase of 84 per cent in the proportion of cases concerning field staff. In the four previous reporting periods, the corresponding percentages were 51 per cent, 63 per cent, 72 per cent and 76 per cent. This increase in the percentage of cases originating in field missions is considered to be due to several factors, including strengthened accountability and performance indicators at the mission level, intensified efforts to conclude open investigations and matters pending for referral as a result of quality assurance exercises at the mission level in accordance with strategic, policy and operational guidance from the Department of Field Support in New York, as well as strengthened efforts to ensure that matters are investigated and referred in a timely, efficient and effective manner.

Table 7
Cases received between 1 July 2014 and 30 June 2015, by type of misconduct

Type of misconduct	*Number*
Abuse of authority/harassment/discrimination	5
Assault (verbal and physical)	14
Misrepresentation and false certification	33
Inappropriate or disruptive behaviour	2
Misuse of information and communications technology resources and computer-related misconduct	1
Misuse of United Nations property or assets	5
Failure to honour private legal obligations	3

Type of misconduct	*Number*
Financial disclosure	1
Retaliation	1
Sexual exploitation and abuse	6
Theft and misappropriation	32
Unauthorized outside activities and conflict of interest	6
Violation of local laws	2
Procurement irregularities	2
Gross negligence	1
Others	29
Total	**143**

V. Possible criminal behaviour

89. In its resolution 59/287, the General Assembly requested the Secretary-General to take action expeditiously in cases of proven misconduct and/or criminal behaviour and to inform Member States about the actions taken. During the reporting period, eight cases involving credible allegations of criminal conduct by United Nations officials or experts on mission were referred to Member States.

VI. Conclusion

90. **The Secretary-General invites the General Assembly to take note of the present report.**